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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,389	03/06/2001	Allen B. Gruber	0001.US01.CIP	8040

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EXAMINER	
CHENCINSKI, SIEGFRIED E	
ART UNIT	**PAPER NUMBER**
3628	

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/800,389	GRUBER ET AL.	
	Examiner	Art Unit	
	Siegfried E. Chencinski	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 January 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *01/11/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness s rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being disclosed by David King (Soliciting Virtual Money, Library Journal netConne4ct Supplement, August 10, 2000; hereafter King) in view of Rafal et al. (US Pregrant Publication 2002/0002586 A1, hereafter Rafal).

Re. Claims 1 & 7, King discloses a method and system for on-line, interactive fundraising for an organization over a wide area network, comprising the steps of

- hosting the organization's website including a plurality of hyperlinked web pages (p. 1, ll. 13-15, 27-30; p. 3, ll. 14-16; p. 4, l. 20);
- displaying one or more web pages with one or more virtual plaques honoring donors (p. 3, ll. 14-16; p. 3, ll. 5-21; p. 4, l. 9);
- providing one or more donation and payment web pages (p. 1, ll. 19-20; p. 2, ll. 1-15).

King does not explicitly disclose updating, according to instructions from the donor, the one or more virtual plaques displayed on the web pages with one or more virtual plaques when a donation is made. However, Rafal discloses updating of donor information ([0012] – ll. 12-13). It is obvious that the updating information would originate with the donor during an interaction with the donor through the method steps utilizing the system. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the teachings of King with the teachings of Rafal to reach for enhanced online fundraising results through the providing of diverse environments for online fund-raiser success (Rafal, [0010]- ll. 5-7).

2. **Claims 2-6 and 8-12 are rejected** under 35 U.S.C. 103(a) as being unpatentable over King and Rafal as applied to claims 1 and 7 above, and further in view of LeMole et al. (US Patent 6,009,410, hereafter LeMole).

Re. Claims 2 & 8, neither King nor Rafal explicitly disclose a method and system of providing information about the fundraising in one or more video clips. However, LeMole discloses the providing of information on a web page through audio and/or video clips (Abstract, ll. 14-19; Col. 2, ll. 28-33). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of King, Rafal and LeMole for the purpose of presenting information about fundraising in one or more video clips motivated by the opportunity to achieve a higher probability of donation by those who see the fundraising video clip (LeMole, Col. 2, ll. 48-55).

Re. Claims 3 & 9, King discloses the use of web pages in fundraising campaigns (p. 2, l. 7). Neither King nor Rafal explicitly disclose a method and system of video clips which are incorporated into one or more web pages. However, LeMole discloses video clips which are incorporated into one or more web pages (Abstract, ll. 14-19; Col. 2, ll. 28-33). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of King, Rafal and LeMole for the purpose of presenting information about fundraising in one or more video clips incorporated into one or more web pages, motivated by the opportunity to achieve a higher probability of donation by those who see the fundraising video clip (LeMole, Col. 2, ll. 48-55).

Re. Claims 4 & 10, neither King nor Rafal explicitly disclose a method and system of video clips incorporated into a virtual plaque. However, LeMole discloses video clips which are incorporated into one or more web pages (Abstract, ll. 14-19; Col. 2, ll. 28-46). The ordinary practitioner would have found it obvious to have incorporated video clips into a virtual plaque as part of an interactive fundraising campaign because virtual plaques are web pages which are adapted graphically to be virtual plaques. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of King, Rafal and LeMole for the purpose of

presenting information about fundraising in one or more video clips incorporated into a virtual plaque motivated by the opportunity to achieve a higher probability of donation by those who see the fundraising video clip (LeMole, Col. 2, ll. 48-55).

Re. Claims 5 & 11, King discloses personal donor virtual plaque donation pages (King, p. 3, ll. 16-17). Neither King nor Rafal explicitly disclose a method and system of video clips which are incorporated in a personalized donation page. However, LeMole discloses video clips which are incorporated into one or more web pages for promotion purposes (Abstract, ll. 14-19; Col. 2, ll. 28-46). The ordinary practitioner would have found it obvious to have incorporated video clips into personalized virtual plaque donation page as part of an interactive fundraising campaign. It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of King, Rafal and LeMole for the purpose of presenting information about fundraising in one or more video clips incorporated into a personalized virtual plaque motivated by the opportunity to achieve a higher probability of donation by those who see the fundraising video clip (LeMole, Col. 2, ll. 48-55).

Re. Claims 6 & 12, neither King nor Rafal explicitly disclose the method and system step of providing information about the fundraising in one or more audio clips. However, LeMole discloses the providing of information on a web page through audio and/or video clips (Abstract, ll. 14-19; Col. 2, ll. 28-33). It would have been obvious to an ordinary practitioner of the art at the time of Applicant's invention to have combined the art of King, Rafal and LeMole for the purpose of presenting information about fundraising in one or more audio clips motivated by the opportunity to achieve a higher probability of donation by those who hear fundraising information through an audio clip (LeMole, Col. 2, ll. 48-55).

Response to Arguments

3. Applicant's arguments filed January 14, 2006 have been fully considered but they are not persuasive.

ARGUMENT A: King should be withdrawn as a prior art reference because Applicant conceived of the invention prior to August 10, 2000 per Applicant's affidavit and additional documentation submitted with the arguments filed January 14, 2006. Further, Applicant questions the examiner's dating of the King reference as "August 10, 2001" as article appears in the "Fall 2000" issue of a journal. (p. 5, ll. 7-13).

RESPONSE: The King reference's dating of the use of virtual plaques, also known as cyberplaques or electronic plaques, has been clarified and strengthened by the IDS documents filed by Applicant on January 14, 2006 as predating Applicant's earliest permissible swearing back date of December 12, 1999. The University of Pennsylvania's Library Divisdion's Development Department used the electronic plaques, also calling them virtual plaques and cyberplaques, at some time between 1995 and January, 1998. These submitted documents include a number of articles written by Adam Corson-Finnerty, Director, Library Development and External Affairs, University of Pennsylvania. Three of these articles document the dating of the University of Pennsylvania Library Development and External Affairs Department's conception and development into practice of electronic plaques made to recognize donors as an initiative begun in 1995 (see Cybergifts, Part 7: Charitable Pathways; pp. 6, line 1 and ff.). CYBERGIFTS, Part 9: MAJOR GIFTS, of this same series of 10 parts, elaborates on this development and on the coining of the expression "cyber-plaquing" with a section titled "Electronic Plaquing" from page 5, bottom, to page 7, middle ("the possibilities in electronic plaquing ..."). Finally, the Article titled "Library Fundraising on the Web", also by Adam Corson-Finnerty (January, 1998), and also submitted as part of Applicant's January 14, 2006 IDS submission, further documents the University of Pennsylvania Library's use of "electronic plaquing" for donors on page 2, "1. Donor Recognition". These references further date the disclosure made in the King reference to a time prior to Applicant's Affidavit, which does not specify when Applicant conceived of and put into practice the "cyberplaquing" feature. These IDS documents submitted on January 14, 2006 thus provide extended details and dates of the full use in practice of the disclosures in the King reference. These disclosures make moot Applicant's affidavit submitted on January 14, 2006 and Applicant's questioning of the August 10, 2000 date

of the King reference. These documents also make clear that Mr. Adam Corson-Finnerty wrote extensively about the University of Pennsylvia Library's energetic and creative fund raising activities practiced throughout the 1990's. These activities and practices included aggressive use of the electronic tools made available by the technologies which made possible the widely available electronic networks, particularly the internet and the world wide web and the web based tools which became available to exploit these electronic communications networks, freely sharing this information at least to the world of fund raisers around the United States and beyond. Therefore, these documents fix the time period of conception and development into practice of electronic/virtual/cyber plaques made to recognize donors disclosed in the King article as between 1995 and January 1998, thus making moot Applicant's Affidavit. This thus confirms the validity of the King reference.

ARGUMENT B: Rafal fails to teach or suggest "updating, according to instructions from a donor, one or more virtual plaques". (p. 5, ll. 14-15).

RESPONSE:

Applicant explicitly admits to a sentence in Rafal which teaches "... constantly updates the profiles of .... gift-givers" (p. 5, ll. 19-20). This disclosure in Rafal clearly suggests updating of donor information to the ordinary practitioner. It would have been obvious to the ordinary practitioner to include "updating, according to instructions from a donor, one or more virtual plaques" under the 35 USC 103 (a) obviousness statute because updating of donor data is involved, whether this involves virtual plaques which in this case are part of an electronic computer and electronic network system, as in Rafal, or other updating. However, the practitioner would have seen the obviousness of the teaching regardless of the means for performing the updating, even if simple paper records were involved. The key suggestion is the step of updating. The secondary idea is to update donor records, which is directly specific to the environment at hand in the Rafal disclosure (updating the profiles of gift givers). The propriety of this principle of what would have been obvious to the ordinary practitioner in seeking a solution for a given problem has been affirmed just a few days ago by the Federal Circuit Court on

March 22, 2006 in *In re Khan* ("A suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. . . . The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. In re Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000). However, rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See Lee, 277 F.3d at 1343-46; Rouffett, 149 F.3d at 1355-59. This requirement is as much rooted in the Administrative Procedure Act, which ensures due process and non-arbitrary decisionmaking, as it is in § 103. See id. at 1344-45." *In re Kahn*, Slip Op. 04-1616, page 9 (Fed. Cir. Mar. 22, 2006).).
In this case the examiner relies on "what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art" and on an "articulated reasoning with some rational underpinning to support the legal conclusion of obviousness", which are both central to the above opinions cited in *In re Khan*.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Hyung S. Sough, can be reached on (571) 272-6799.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington D.C. 20231

or faxed to:

(703)872-9306 [Official communications; including After Final communications labeled "Box AF"]

(571) 273-6792 [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to the address found on the above USPTO web site in Alexandria, VA.

SEC

April 5, 2006

FRANTZY POINVIL
PRIMARY EXAMINER
AU 3628